

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MTGLQ INVESTORS, LP,

Plaintiff,

vs.

Case No. 17-CV-487-KG-LF

MONICA L. WELLINGTON,

Defendant.

ORDER SETTING HEARING

David Wellington and all Parties to this action are hereby ordered to appear for a hearing on David Wellington's Motion for Leave to Intervene and Vacate the Writ of Assistance (Doc. 280) on **Tuesday, February 21, 2023, at 9:00 am**. The hearing will take place in the Mimbres Courtroom, on the fourth floor of the Las Cruces Federal Courthouse, 100 N. Church St., Las Cruces, New Mexico 88001.

Given the timing of the hearing relative to the filing of the Motion, that Plaintiff's lead counsel resides out of state, and that Plaintiff does not bear any burden on the Motion, Plaintiff is granted leave to appear by video, though may appear in person if it wishes. Video instructions will be included in the docket entry.


David Wellington bears the burden on the Motion and therefore must appear in person. Because Monica Wellington is twice implicated in the Motion, she must also appear in person. On the question of intervention, the Court must determine whether she can adequately represent the rights of David Wellington. Fed. R. Civ. P. 24(a)(2) (requiring intervention by right "unless existing parties adequately represent that [party's] interest."). And on the question of vacating

the writ, the Motion adopts the “arguments and exhibits” filed by Ms. Wellington in her prior motion. (Doc. 280) at 4 n.3 (referencing (Docs. 277, 277-1, 277-2)).

A party’s failure to appear may result in the Motion being denied with prejudice, and an order to show cause why the party failing to appear should not be held in contempt and/or be issued a bench warrant for their arrest.

The United States Marshal for the District of New Mexico is hereby ordered to serve this Order on David Wellington at his listed address, 2124 Altura Verde Lane NE Albuquerque, NM, 87110, as soon as possible and no later than **Friday, February 17, 2023, at 5:00pm**. It is further ordered that the United States Marshal for the District of New Mexico shall return this Order to this Court immediately upon its execution.

IT IS SO ORDERED.


UNITED STATES DISTRICT JUDGE

Order served on David Wellington at ____ am/pm on the ____ day of February, 2023

United States Marshal (or designee)